

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PAUL A. REDD, JR.,

No. C98-20429 JF (HRL)

Plaintiff,

v.

**ORDER GRANTING DEFENDANT'S
MOTION FOR INDEPENDENT
MEDICAL EXAMINATION OF
PLAINTIFF**

STEVEN CAMBRA, JR., et al.,

Defendants.

[Re: Docket No. 143]

Defendant filed what it titled an Ex Parte Motion for Independent Medical Examination of Plaintiff. The court deems this a motion for a physical examination pursuant to Fed. R. Civ. P. 35 and an application to shorten time pursuant to civil local rule 6-3. Because of the impending discovery deadline, the court GRANTS the application to shorten time. For the reasons below, the court also GRANTS the motion for the physical examination.

I. BACKGROUND

Plaintiff Paul A. Redd filed claims related to injuries he sustained while incarcerated at Pelican Bay State Prison in Crescent City, California. He alleges that he suffers from pain in his back, neck, and jaw as a result of a fall. The circumstances and injuries suffered in Mr. Redd's fall are key issues in his complaint.

II. LEGAL STANDARD

Fed. R. Civ. P. 35(a)(2) grants authority to the court, upon motion, to “order a party whose mental or physical condition . . . is in controversy to submit to a physical or mental examination by a suitably licensed or certified examiner.”

III. DISCUSSION

Mr. Redd’s injuries are central to his claims. In such circumstances, defendant would ordinarily be entitled to an independent medical examination. As a result, there is good cause for the court to order plaintiff to submit to a physical examination by Dr. Robert Z. Bruckman, M.D., an orthopedic specialist.

The defendant’s proof of service indicates that a copy of the defendant’s application was sent to plaintiff on the same day that this motion was filed (July 3, 2008). The court notes that although he refused to stipulate to the examination, the plaintiff did not file an objection, either. Indeed, it would be difficult to imagine what legitimate objection plaintiff could have to this examination, as the injuries he suffered after he fell are central to his claims. It is also difficult to imagine how plaintiff would be prejudiced by the court ordering the examination.

Accordingly, IT IS ORDERED THAT:


1. Plaintiff shall submit to a medical examination conducted by Dr. Robert Z. Bruckman on July 18, 2008 at 11:00 A.M. at San Quentin State Prison, 1 Main Street, San Quentin, California 94964;
2. Dr. Bruckman’s examination will be limited to a general physical or orthopedic examination and may include radiographic studies, x-rays and other tests to assess injuries to plaintiff’s back, knee, and any other injuries complained of in this action; and

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- 1 3. Defendant will arrange for plaintiff's transport to San Quentin State Prison solely
2 for the purpose of the July 18, 2008 examination.

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5 Dated: 07/14/08

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9 HOWARD L. LLOYD
10 UNITED STATES MAGISTRATE JUDGE
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1 **Notice electronically mailed to:**

2 trace.maiorino@doj.ca.gov

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4 **Counsel are responsible for distributing copies of this document to co-counsel who have**
5 **not registered for e-filing under the court's CM/ECF program.**

6 **Notice mailed to:**

7 **Paul A. Redd, Jr.**

8 B-72683

9 Pelican Bay State Prison

10 P O Box 7500

11 D2-117

12 Crescent City, CA 95531

13 PRO SE

14
15 Dated: 07/14/08

/s/ mpk

Chambers of Magistrate Judge Lloyd